

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL NO. 5:11-cr-00038

HUGHIE ELBERT STOVER,

Defendant.

NOTICE OF APPEAL

Comes now the Defendant Hughie Elbert Stover, by counsel, and respectfully gives notice that the Defendant hereby appeals to the United States Court of Appeals for the Fourth Circuit from the final judgment entered on March 1, 2012 [Dkt. No. 188], the Order entered on February 27, 2012 denying Defendant's Motion for New Trial and Renewed Motion for Judgment of Acquittal [Dkt. No. 182], the Order entered October 18, 2011 denying Defendant's Motion in Limine to Exclude Evidence, Testimony, or Reference to the April 15, 2010 Tragedy at the Upper Big Branch Mine [Dkt. No. 97], Order denying Defendant's Motion to Suppress Statements Made at November 30, 2010, and January 21, 2011, Interrogations [Dkt. No. 97], Order denying Defendant's Motion in Limine to Exclude Defendant's Statements [Dkt. No. 97], Order denying Defendant's Motion to Dismiss Counts One and Two of the Superseding Indictment [Dkt. No. 69] and rulings made during trial on October 24-27, 2011, by the District Court of the Southern District of West Virginia, at the Beckley, West Virginia, point of holding court in this action.

The final judgment entered on March 1, 2012, found the Defendant Hughie Elbert Stover guilty of false statements, in violation of 18 U.S.C. § 1001, and concealment of documents, in violation of 15 U.S.C. §§ 1519 and 2(b). The Order entered on July 13, 2011,

denied the Defendant's motion to dismiss Count One of the Superseding Indictment.¹ During trial, the Court denied Defendant's request for an instruction to the jury on (1) the defense of advice of counsel and (2) good faith as they relate to the element of specific intent in the charges. The Defendant also alleged in his Motion for New Trial and Renewed Motion for Judgment of Acquittal the existence of prosecutorial misconduct during trial.

Dated this 13th day of March, 2012.

STEPTOE & JOHNSON PLLC
Of Counsel

/s/ William D. Wilmoth
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***Counsel for Defendant,
Hughie Elbert Stover***

¹ The Order entered on July 13, 2011, also denied Defendant's motion to dismiss Count Two of the Indictment. However, on October 21, 2011 [Dkt. No. 137], the Court granted leave for the government's filing of the dismissal without prejudice of Count Two of the Superseding Indictment [Dkt. No. 134].

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CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of March, 2012, I served the foregoing “Notice of Appeal” upon all counsel of record, using the Court’s CM/ECF filing system as follows:

Hon. R. Booth Goodwin, II
Blair L. Malkin, Esq.
Philip H. Wright, Esq.
Larry R. Ellis, Esq.
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_____/s/ William D. Wilmoth